

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-4, 6-12 and 14-18 are currently pending in the application. Claims 9-12, 14-16 and 18 are amended; and Claims 5 and 13 are canceled without prejudice or disclaimer. The claims are amended only to avoid interpretation under 35 U.S.C. § 112, sixth paragraph. Thus, no new matter is presented.

In the Office Action, Claims 1-18 are provisionally rejected under 35 U.S.C. § 101, as claiming the same invention as that of co-pending Application No. 11/066,276 (herein, the ‘276 Application).

In response to the above noted rejection, Claims 5 and 13 are canceled in the present application, and independent Claims 1, 9, 17 and 18 of the ‘276 Application are amended to incorporate subject matter similar to that recited in canceled Claims 5 and 13 (and respective intervening Claims 2-3 and 10-11). Therefore, the claims of the present application, and those of the ‘276 Application are no longer coextensive in scope.

Accordingly, Applicant respectfully requests that the rejection of Claims 1-4, 6-12 and 14-18 under 35 U.S.C. § 101 be withdrawn.

Further, regarding any subsequent non-statutory double patenting rejection of Claims 1-4, 6-12 and 14-18, this rejection is preempted in light of the Terminal Disclaimer submitted herewith.

The filing of a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The “filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.” *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d

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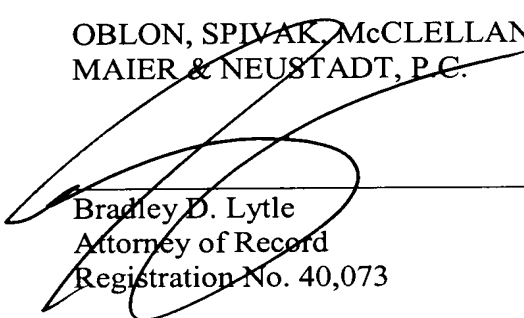
1392 (Fed. Cir. 1991). Accordingly, Applicants' filing of the attached Terminal Disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Consequently, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

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